



CLOSED CASE SUMMARY

ISSUED DATE: JULY 12, 2020

CASE NUMBER: 2019OPA-0756

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Training Referral)
# 2	15.410 - Domestic Violence Investigation 3. Officers Will Make a Reasonable Effort to Protect the Victim and Arrest the Suspect	Not Sustained (Training Referral)
# 3	15.410 - Domestic Violence Investigation 5. The Department is Committed to a Thorough Primary Investigation of Domestic Violence Incidents	Not Sustained (Training Referral)
# 4	15.410 - Domestic Violence Investigation 15.410-TSK-1 Patrol Officer Primary Investigation of a Domestic Violence Incident	Not Sustained (Training Referral)
# 5	15.410 - Domestic Violence Investigation 15.410-TSK-2 Officer's Report and Narrative	Not Sustained (Training Referral)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

It was alleged that the Named Employee engaged in unprofessional acts and made inappropriate statements. It was further alleged that the Named Employee failed to thoroughly investigate a domestic violence incident and also did not properly document the incident.

SUMMARY OF INVESTIGATION:

At approximately 1:30 p.m. on October 8, 2019, Named Employee #1 (NE#1) responded to a call of a woman in crisis. The woman, who was in the back room of a nail salon, told NE#1 that she had been held against her will and kidnapped. She told NE#1 that, due to the trauma of the incident, she had taken drugs and was not thinking normally. She told NE#1 that she had been stabbed and showed NE#1 the wound. NE#1 called medics to the scene and notified them that the woman had taken meth and had a puncture wound. The woman told NE#1 the name of the person who stabbed her and disclosed that they had previously dated. She said that he stabbed her because she would not provide him with the passwords to her email account. She indicated that the assault occurred at 2:00 or 3:00 the previous morning. Medics arrived and the woman was transported to a hospital for medical treatment. At that time, NE#1 discussed what hospital the woman should go to with the Seattle Fire Department (SFD). NE#1 noted that either Overlake Hospital (in Bellevue) or Harborview Medical Center (HMC) would be better for the woman. The woman said that she wanted to go to Overlake. An SFD employee asked NE#1 why she should go to HMC. He replied that that he did not want the woman staying in the North Precinct. NE#1 further stated that he believed the woman had mental health issues and would be better off going to HMC.



NE#1 went with another officer to the business where the woman claimed to have been held against her will and spoke with the owner. At that time, the other officer expressed confusion as to what was going on, stating that he had no idea what to make of the woman's claims. The owner denied knowledge of the woman being held at the business. He was aware of issues between the woman and her boyfriend but said that he did not want to be involved with that. The owner said that the woman seemed fine when he saw her a few hours prior but that she left the business quickly. The owner told NE#1 the boyfriend was not there and was looking for the woman. While in the building, NE#1 did not attempt to observe the location where the woman had been held against her will to determine whether there was evidence of such a confinement or evidence of the assault. He further did not perform an area check for the boyfriend prior to leaving the scene.

NE#1 screened the incident with his direct supervisor, Sergeant #1. Sergeant #1 agreed that the report should be written up as a "Suspicious Circumstances" report with domestic violence (DV) elements and that the report should be routed to the DV Unit. Sergeant #1 did not approve the report and it was not immediately approved by another supervisor.

The following day, the boyfriend went to the woman's home and assaulted her. He tried to abduct the woman, but she was able to escape. The boyfriend then got into his car and was pursued by officers from several police departments. He ultimately crashed and was arrested while trying to carjack another vehicle.

After the pursuit occurred, the DV unit became aware of the pending Suspicious Circumstances report that had been generated by NE#1. A DV Unit supervisor asked a North Precinct supervisor to approve the report. The DV unit supervisor then assigned the case out to detectives. On October 15, 2019, detectives went to the business to investigate the DV unlawful imprisonment and to recover evidence. North Precinct officers, including NE#1, also went to that location. While at the scene, NE#1 spoke with multiple DV detectives, including questioning them concerning the status of their investigations and any findings they had reached. One of the detectives asked NE#1 whether he had gone upstairs in the business and he said that he did not because he did not have a warrant.

The DV Unit lieutenant reviewed NE#1's report and the BWV and, after speaking with her direct supervisor, made the determination that an OPA referral was appropriate. NE#1's lieutenant disagreed that an OPA referral was required and believed that the issues identified could be addressed via retraining and counseling. This OPA investigation ensued.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional

SPD Policy 5.001-POL-10 requires that SPD employees "strive to be professional at all times." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers." (SPD Policy 5.001-POL-10.) The policy further states the following: "Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person." (*Id.*) Lastly, the policy instructs Department employees to "avoid unnecessary escalation of events even if those events do not end in reportable uses of force." (*Id.*)



This allegation was added based on two primary acts and statements by NE#1. First, it was alleged that NE#1 improperly inserted himself into the DV Unit's follow-up investigation into the kidnapping and assault of the woman. Second, it was alleged that NE#1 made unprofessional comments, including referring to the scene as appearing to be a "porn shoot," telling SFD employees that he did not want the woman to be hospitalized within the North Precinct, and referring to the woman as the "victim, or whatever she is."

With regard to NE#1's interaction with the DV Unit detectives, both detectives interviewed described NE#1's behavior as strange; however, neither felt that it crossed the line into unprofessionalism. In addition, both stated that they did not feel that he was trying to affect their investigation and his actions did not serve to do so. NE#1 also denied that he was trying to influence the investigation and indicated that he was simply curious. While OPA concludes that the evidence is insufficient that NE#1's actions were unprofessional, OPA finds that his decision-making in this regard was questionable and served to raise the specter of impropriety.

With regard to NE#1's statements, while they walked the line of being inappropriate, OPA finds, similar to the above, that they did not violate policy. NE#1's comments regarding the scene looking like a "porn shoot" appeared to be, as he contended, "gallows humor." His comment regarding the woman being a "victim or whatever she is," expressed his confusion as to what actually occurred during the incident. While inartful, these comments did not rise to being unprofessional. With regard to the statement he made regarding removing the woman from the North Precinct, NE#1 explained that he felt this was appropriate to provide her with better medical care given her condition and to lessen the possibility that she could be tracked down by her boyfriend. Again, while articulated poorly and while he could have been interpreted as seeking to remove her from the North Precinct because she was somehow undesirable, OPA cannot establish that this was unprofessional based on NE#1's account.

While OPA does not conclude that NE#1 violated policy, OPA finds that his actions and statements warrant retraining from his chain of command. As such, OPA recommends that this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1's chain of command should remind NE#1 of the Department's expectation that he conducts himself in a professional manner. The chain of command should specifically discuss the statements referenced in this DCM and NE#1's decision to question the follow-up detectives at the scene while they were conducting their investigation. NE#1 should be reminded that, even if not his intent, his actions and statements could have given the appearance of impropriety. This retraining and associated counseling should be documented, and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #1 - Allegation #2

15.410 - Domestic Violence Investigation 3. Officers Will Make a Reasonable Effort to Protect the Victim and Arrest the Suspect

SPD Policy 15.410-POL-3 generally requires that, during a DV investigation, officers make a reasonable effort to protect the victim and to arrest the suspect. Officers are instructed that, among other tasks, they must: assess whether the incident is DV in nature; conduct a primary investigation; arrest the suspect where there is probable cause and where the criminal conduct occurred within the last four hours; and properly document the investigation.



A review of NE#1's BWV indicated that he went to the business where the woman was allegedly held and spoke to the business owner. However, NE#1 made no attempt to try to inspect the area in which the crime purportedly occurred. While NE#1 asserted that he did not do so because of the absence of a warrant, he could have asked the business owner for consent to search and, if needed, sought a warrant.

Moreover, while NE#1 determined, based on his conversation with the business owner, that the boyfriend – the primary suspect in the alleged criminal activity – was searching for the woman and was presumably in the vicinity, NE#1 did not perform an area check to locate him. NE#1 also did not broadcast the information concerning the boyfriend over the radio.

Though NE#1 is not responsible for the boyfriend's later criminal acts against the woman and others, he should have taken these additional steps during his investigation as they could have led to the boyfriend's arrest.

Ultimately, while OPA finds several shortcomings with NE#1's handling of this incident, his investigation was otherwise complete. Notably, he interviewed the woman, assessed her injuries, provided her with prompt medical care, offered her resources, and interviewed witnesses. OPA further recognizes, as stated below, that NE#1 was reasonably confused as to the nature of this incident, given the account provided by the woman and her admission that she had just used narcotics. Indeed, this confusion was shared by the other officer who responded to this incident.

As such, OPA does not recommend that he receive a Sustained finding. Instead, OPA recommends that this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1's chain of command should review SPD Policies 15.410-POL-3, 15.410-POL-5, and 15.410-TSK-1 with him and remind him of the requirements surrounding the investigation of DV incidents. NE#1's chain of command should review the investigation conducted in this case and discuss ways in which it could have been performed in a manner more consistent with the expectations set forth in SPD policy. This retraining and associated counseling should be documented, and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #1 - Allegation #3

15.410 - Domestic Violence Investigation 5. The Department is Committed to a Thorough Primary Investigation of Domestic Violence Incidents

OPA recommends that this allegation be Not Sustained and refers to the above Training Referral (see Named Employee #1 – Allegation #2).

Recommended Finding: **Not Sustained (Training Referral)**



Named Employee #1 - Allegations #4

15.410 - Domestic Violence Investigation 15.410-TSK-1 Patrol Officer Primary Investigation of a Domestic Violence Incident

OPA recommends that this allegation be Not Sustained and refers to the above Training Referral (see Named Employee #1 – Allegation #2).

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #1 - Allegation #5

15.410 - Domestic Violence Investigation 15.410-TSK-2 Officer's Report and Narrative

SPD Policy 15.410-TSK-2 sets forth the required elements of an officer's report and narrative surrounding a DV investigation. Here, the primary issue is that NE#1 classified his report as a Suspicious Circumstances instead of a DV incident.

OPA concludes that, based on the totality of the evidence, it was clear that this was a DV incident and that NE#1's report should have been classified as such. However, as stated above, NE#1 was clearly confused about the nature of this case and OPA finds that his confusion was not unreasonable. OPA further finds it compelling that NE#1's intent to so classify his report was screened with and apparently approved by a supervisor.

Accordingly, OPA recommends that he receive the below Training Referral rather than a Sustained finding.

- **Training Referral:** NE#1's chain of command should review SPD Policy 15.410-TSK-2 with him and remind him of the requirements surrounding the documentation of DV incidents. NE#1's chain of command should review with NE#1 his decision to classify this incident as a Suspicious Circumstance and discuss whether that was appropriate and consistent with policy. This retraining and associated counseling should be documented, and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**